Message

From: Olsen, Catherine [colsen@spokanecity.org]
Sent: 11/7/2016 5:32:56 PM
To: Mullin, Michelle [Mullin.Michelle@epa.gov]; McArthur, Lisa [McArthur.Lisa@epa.gov]
CC: Schoedel, Elizabeth [eschoedel@spokanecity.org]
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing
Attachments: removed.txt

You are on! Thanks for your commitment and flexibility.

Cadie

From: Mullin, Michelle [mailto:Mullin.Michelle@epa.gov]
Sent: Friday, November 04, 2016 4:34 PM
To: Olsen, Catherine; McArthur, Lisa
Cc: Schoedel, Elizabeth
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing
Importance: Low

Ok, let's plan on 4:30 on Tuesday the 8th.

Thank you, Cadie, talk to you soon.

Sincerely,
Michelle Mullin

From: Olsen, Catherine [mailto:colsen@spokanecity.org]
Sent: Friday, November 04, 2016 1:13 PM
To: Mullin, Michelle <Mullin.Michelle@epa.gov>; McArthur, Lisa <McArthur.Lisa@epa.gov>
Cc: Schoedel, Elizabeth <eschoedel@spokanecity.org>
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

Michelle,

Thank you for the phone message.

Unfortunately, Nov 8 at 1:30 won't work.

4-5 on the 8th is free.

Here are some other times: 11/7: 1-3pm, 11/9: 12-1:30, 11/10: 8-10am.

Thanks,

Cadie

From: Mullin, Michelle [mailto:Mullin.Michelle@epa.gov]
Sent: Friday, November 04, 2016 10:50 AM
To: Olsen, Catherine; McArthur, Lisa
Cc: Schoedel, Elizabeth

Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing
Importance: Low

Hello Cadie-
This is to follow up on a voicemail I just left for you.
My supervisor, Lisa McArthur, has had something come up that prevents her from being able to participate in today's call. I know she wanted to be part of the conversation, so I would like to re-schedule with you.

Tuesday, November 8th at 1:30 works for both Lisa and myself. Can you confirm if this date and time will work for you?

Thanks,
Michelle Mullin

From: Mullin, Michelle
Sent: Wednesday, November 02, 2016 5:12 PM
To: 'Olsen, Catherine' <colsen@spokanecity.org>
Cc: Schoedel, Elizabeth <eschoedel@spokanecity.org>
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

Cadie-

How about 1pm, Friday.
Shall we call you at 509.625.6968?

Michelle

From: Olsen, Catherine [mailto:colsen@spokanecity.org]
Sent: Wednesday, November 02, 2016 2:33 PM
To: Mullin, Michelle <Mullin.Michelle@epa.gov>
Cc: McArthur, Lisa <McArthur.Lisa@epa.gov>; Schoedel, Elizabeth <eschoedel@spokanecity.org>
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

Michelle,

Apology accepted. A Friday call sounds fantastic!

I am free 8am to 9 and 12 to 5. Any time in there that works for you?

Thank you so much for making time for a call.

Cadie

From: Mullin, Michelle [mailto:Mullin.Michelle@epa.gov]
Sent: Wednesday, November 02, 2016 1:58 PM
To: Olsen, Catherine
Cc: McArthur, Lisa; Schoedel, Elizabeth
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing
Importance: Low

Hello Cadie-

I apologize for the lack of phone calls, I have been out of the office quite a bit. I am currently in all-day training today and tomorrow.

Does 10:15 am work for you on Friday for a call?

Michelle Mullin

From: Olsen, Catherine [mailto:colsen@spokanecity.org]
Sent: Wednesday, November 02, 2016 8:01 AM
To: Mullin, Michelle <Mullin.Michelle@epa.gov>
Cc: McArthur, Lisa <McArthur.Lisa@epa.gov>; Schoedel, Elizabeth <eschoedel@spokanecity.org>
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

Dear Ms. Mullin,

The City of Spokane has a demonstrated history of full compliance and a deep commitment to protecting The Waters of the State. Clean water is a vital component of our quality of life here and the critical services we provide to our citizens. We are a constructive partner to all parties who share these interests.

You are sensing my legitimate frustration, not a lack of desire to comply. I am frustrated with myself that I don't understand your request and need you help to improve our communication so I can understand.

I don't usually get involved at this level, as I have bigger fish to fry - a term we commonly used in Region 9 to mean big-issue regulatory problem-solving. I'm sorry you were offended by my California colloquialism. It was gently intended as light hearted regulator-to-regulator banter to mean that I perceive this as a minor issue in need of verbal clarification.

Please pick up the phone and return my calls. I have a genuine interest in creating an atmosphere of constructive communication with you, and a real responsibility to full compliance with all applicable requests. If you are the only PCB regulator at Region 10, as you mentioned in our one and only phone call, we will be seeing quite a lot of each other in the future, and owe it to the public that we both serve to create clear, constructive communication as we work together to control this difficult toxin.

Sincerely,

Cadie

From: Mullin, Michelle [mailto:Mullin.Michelle@epa.gov]
Sent: Tuesday, November 01, 2016 5:56 PM
To: Olsen, Catherine
Cc: McArthur, Lisa
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing
Importance: Low

Hello,
Based on the definition of PCB R&D For Disposal, you are conducting a demonstration for "treatability studies for PCB disposal technologies which have not been approved, development of new disposal technologies, and research on chemical transformation processes including, but not limited to, biodegradation."

When the concentration is unknown, you must assume it is >50 ppm.

The definition of Disposal is: intentionally or accidentally to discard, throw away, or otherwise complete or terminate the useful life of PCBs and PCB Items. Disposal includes spills, leaks, and other uncontrolled discharges of PCBs as well as actions related to containing, transporting, destroying, degrading, decontaminating, or confining PCBs and PCB Items.

This definition can be found online at http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=0f178d55e2cfc93f68fb09db7a4c9b13&mc=true&n=pt40.34.761&r=PART&ty=HTML#se40.34.761_13

As I have previously stated, vactor waste from sewers is considered a PCB Remediation Waste.

The definition of PCB Remediation waste is: (highlighted parts are my own edit, for clarification)
PCB remediation waste means waste containing PCBs as a result of a spill, release, or other unauthorized disposal, at the following concentrations: Materials disposed of prior to April 18, 1978, that are currently at concentrations ≥50 ppm PCBs, regardless of the concentration of the original spill; materials which are currently at any volume or concentration where the original source was ≥500 ppm PCBs beginning on April 18, 1978, or ≥50 ppm PCBs beginning on July 2, 1979; and materials which are currently at any concentration if the PCBs are spilled or released from a source not authorized for use under this part. PCB remediation waste means soil, rags, and other debris generated as a result of any PCB spill cleanup, including, but not limited to:

(1) Environmental media containing PCBs, such as soil and gravel; dredged materials, such as sediments, settled sediment fines, and aqueous decantate from sediment.

(2) Sewage sludge containing <50 ppm PCBs and not in use according to §761.20(a)(4); PCB sewage sludge; commercial or industrial sludge contaminated as the result of a spill of PCBs including sludges located in or removed from any pollution control device; aqueous decantate from an industrial sludge.

(3) Buildings and other man-made structures (such as concrete floors, wood floors, or walls contaminated from a leaking PCB or PCB-Contaminated Transformer), porous surfaces, and non-porous surfaces.
http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=0f178d55e2cfc93f68fb09db7a4c9b13&mc=true&n=pt40.34.761&r=PART&ty=HTML#se40.34.761_13

The definition of PCB remediation waste brings PCBs at any concentration in sewer sediments under EPA regulation.

My purpose in this workgroup is to provide assistance and advise you all on the regulatory status of your work, and how to maintain compliance. In an earlier conversation you used the term "fish to fry". I want to assure you again that I am not out to fry your fish ;) I am trying to help you come into compliance with the rules while conducting this research.

Is there a reason that the city of Spokane is reluctant to obtain an EPA ID for R&D for PCB Disposal? I'm not sure I understand why this has not yet happened. I mentioned in the April kick-off meeting that the Notification form should be filed and the self-implementing R&D procedures should be followed. There was no objection at that time. The City of Spokane representative at the meeting stated that the appropriate next steps would take place. When I checked back on this issue more recently I realized it had not yet happened, and have been trying to provide assistance towards coming into compliance since that time. There seems to be a lot of resistance which I do not understand because applying for an EPA ID is a simple process with a very quick turnaround from HQ.

At this time, the Notification form needs to be submitted to EPA HQ and an updated notification descriptions needs to be submitted to the Region per 761.60(j).

Thank you,
Michelle Mullin

From: Olsen, Catherine [mailto:colsen@spokanecity.org]
Sent: Tuesday, November 01, 2016 5:16 PM
To: Mullin, Michelle <Mullin.Michelle@epa.gov>
Cc: McArthur, Lisa <McArthur.Lisa@epa.gov>
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

At what volumetric amount does EPA have regulatory authority with respect to PCBs?

Please provide the definition of PCB disposal.

Recall that we are talking about samples of dry vactor waste with unknown quantities of PCB.

Once analyzed, these range from 33 to 54 parts per billion.

I disagree that we are engaged in R&D for PCB disposal and need your help to understand why you think we are.

I am grateful for your willingness to resolve the issue.

Cadie

From: Mullin, Michelle [mailto:Mullin.Michelle@epa.gov]
Sent: Tuesday, November 01, 2016 5:01 PM
To: Olsen, Catherine
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

Hi Cadie-
I believe I also provided this definition early on in an email string.

It can be found at 40 CFR 761.3
Research and development (R&D) for PCB disposal means demonstrations for commercial PCB disposal approvals, pre-demonstration tests, tests of major modifications to previously approved PCB disposal technologies, treatability studies for PCB disposal technologies which have not been approved, development of new disposal technologies, and research on chemical transformation processes including, but not limited to, biodegradation.

Michelle Mullin

From: Olsen, Catherine [mailto:colsen@spokanecity.org]
Sent: Tuesday, November 01, 2016 4:45 PM
To: Mullin, Michelle <Mullin.Michelle@epa.gov>
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

Please provide the definition of R&D for PCB disposal.

From: Mullin, Michelle [mailto:Mullin.Michelle@epa.gov]
Sent: Tuesday, November 01, 2016 2:07 PM
To: Olsen, Catherine
Cc: McArthur, Lisa
Subject: RE: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

Cadie-
At this time, I have no reason to believe that the Notification of PCB Activity form should not be filled out.

The regulations for Research and Disposal are quite clear, as I have previously provided. I am still waiting for the Notification form to be filed with HQ, and your notification to the region to be updated, per 761.60(j) below.

-Michelle Mullin

761.60(j) *Self-implementing requirements for research and development (R&D) for PCB disposal.* (1) Any person may conduct R&D for PCB disposal without prior written approval from EPA if they meet the following conditions:
(i) File a notification and obtain an EPA identification number pursuant to subpart K of this part.
(ii) Notify in writing the EPA Regional Administrator, the State environmental protection agency, and local environmental protection agency, having jurisdiction where the R&D for PCB disposal activity will occur at least 30 days prior to the commencement of any R&D for PCB disposal activity conducted under this section. Each written notification shall include the EPA identification number of the site where the R&D for PCB disposal activities will be conducted, the quantity of PCBs to be treated, the type of R&D technology to be used, the general physical and chemical properties of material being treated, and an estimate of the duration of the PCB activity. The EPA Regional Administrator, the State environmental protection agency, and the local environmental protection agency may waive notification in writing prior to commencement of the research.

(iii) The amount of material containing PCBs treated annually by the facility during R&D for PCB disposal activities does not exceed 500 gallons or 70 cubic feet of liquid or non-liquid PCBs and does not exceed a maximum concentration of 10,000 ppm PCBs.
(iv) No more than 1 kilogram total of pure PCBs per year is disposed of in all R&D for PCB disposal activities at a facility.
(v) Each R&D for PCB disposal activity under this section lasts no more than 1 calendar year.
(vi) Store all PCB wastes (treated and untreated PCB materials, testing samples, spent laboratory samples, residuals, untreated samples, contaminated media or instrumentation, clothing, etc.) in compliance with §761.65(b) and dispose of them according to the undiluted PCB concentration prior to treatment. However, PCB materials not treated in the R&D for PCB disposal activity may be returned either to the physical location where the samples were collected or a location where other regulated PCBs from the physical location where the samples were collected are being stored for disposal.
(vii) Use manifests pursuant to subpart K of this part for all R&D PCB wastes being transported from the R&D facility to an approved PCB storage or disposal facility. However, §§761.207 through 761.219 do not apply if the residuals or treated samples are returned either to the physical location where the samples were collected or a location where other regulated PCBs from the physical location where the samples were collected are being stored for disposal.
(viii) Package and ship all PCB wastes pursuant to DOT requirements under 49 CFR parts 171 through 180.
(ix) Comply with the recordkeeping requirements of §761.180.
(2) Do not exceed material limitations set out in paragraphs (j)(1) (iii) and (iv) of this section and the time limitation set out in paragraph (j)(1)(v) of this section without prior written approval from EPA. Requests for approval to exceed the material limitations for PCBs in R&D for PCB disposal activities as specified in this section must be submitted in writing to the EPA Regional Administrator for the Region in which the facility conducting R&D for PCB disposal activities is located. Each request shall specify the quantity or concentration requested or additional time needed for disposal and include a justification for each increase. For extensions to the duration of the R&D for PCB disposal activity, the request shall also include a report on the accomplishments and progress of the previously authorized R&D for PCB disposal activity for which the extension is sought. The EPA Regional Administrator may grant a waiver in writing for an increase in the volume of PCB material, the maximum concentration of PCBs, the total amount of pure PCBs, or the duration of the R&D activity. Approvals will state all requirements applicable to the R&D for PCB disposal activity.
(3) The EPA Regional Administrator for the Region in which an R&D for PCB disposal activity is conducted may determine, at any time, that an R&D PCB disposal approval is required under paragraphs (e) and (i)(2) of this section or §761.70(d) to ensure that any R&D for PCB disposal activity does not present an unreasonable risk of injury to health or the environment.

From: Olsen, Catherine [mailto:colsen@spokanecity.org]
Sent: Tuesday, November 01, 2016 10:10 AM
To: Mullin, Michelle <Mullin.Michelle@epa.gov>
Cc: McArthur, Lisa <McArthur.Lisa@epa.gov>
Subject: Form 771053 Notification of PCB Activity for Spokane Vactor Waste testing

Dear Ms. Mullin,

I am following up on my initial phone call of October 13, 2016.

You requested that the City of Spokane submit Form 771053, Notification of PCB Activity.

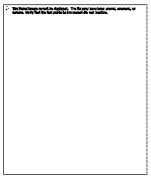
You also expressed concern that the City is sending vactor waste samples to a lab in Canada.

Our stormwater sample testing and Fungi project with the Lands Council do not require Notification of PCB Activity. Our total PCB results to date range from 33.3 parts per billion to 45 parts per billion.

Our contractor, Pacific Rim Labs in BC, is the same lab the Washington Department of Ecology uses. In these quantities, the waste does not fall under your regulatory authority. We are sending dry weight vactor waste of unknown composition for standard testing under our existing NPDES permits.

Please respond to my email that you do not need Form 771053, and do not require any further action on our part. I am happy to speak with you in person if you have further questions.

Thank you,



Cadie Olsen | Environmental and Sustainability Manager
City of Spokane | 509.625.6968